IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 22092 of 2002

Between:

Samkrg Pistons (Rings) Workers' Union,

Reg. No.D/1669/98, Varisam Post,

Pydibheemavaram Mandal, Srikakulam District,

Rep. By its General Secretary,

G.Changala Rao, S/o Mohan Rao, Aged 28 years.

..... PETITIONER

AND

1. The Principal Secretary to Government,

Labour Employment Technical & Factories Department,

State of A.P., Hyderabad.

2. The Commissioner of Labour,

A.P., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ, more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in not referring the dispute for adjudication to the Industrial Tribunal Cum Labour Court, Visakhapatnam in pursuance of the factual (failure) report submitted by the conciliation officer cum

Asst. Commissioner of Labour Srikakulam in Rc.A2-3327/2001 dated 11-10-2002, as illegal, arbitrary and violative of the provisions of Section 10 of the Industrial Disputes Act, 1947 and consequently direct the 1st respondent to refer the dispute to the Industrial Tribunal Cum Labour Court, Visakhapatnam for adjudication without further delay.

Counsel for the Petitioner:MR. V.SUDHAKAR REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR LABOUR

The Court made the following :

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ORDER:

Heard both sides.

The petitioner herein, which is a Workers' Union, filed this Writ Petition, inter alia, seeking Writ of Mandamus declaring the action of the 1st respondent herein in not referring the dispute for adjudication to the Industrial Tribunal-Cum-Labour Court, Visakhapatnam, in pursuance of the factual (failure) report submitted by the Conciliation Officer on 11-10-2002, as illegal.

The case of the petitioner is that having regard to the strike and the demands made, dispute arose and attempts have been made for conciliation, which was failed and in fact the management did not appear at all. Accordingly, the report has been submitted on 11-10-2002 under Section 12(4) of the Industrial Disputes Act, 1947 to the 1st respondent.

The main grievance of the petitioner is that in spite of the submission of failure report, no reference has been made to refer the dispute to the Industrial Tribunal Cum Labour Court, Visakhapatnam, as a result the petitioner in particular and the workers in general are put to great hardship and loss.

Having heard the Counsel on either side and on perusal of the material on record, it is seen that though failure report has been made by the Conciliation Officer, the 1st respondent has not made any reference to the concerned Industrial Tribunal or Labour Court. It is now well settled that once failure report is made by the Conciliation Officer, the respondent No.1 has no option except to make a reference, as contemplated under Section 10 of the Industrial Disputes Act, 1947.

In the circumstances, the Writ Petition is allowed. The respondent No.1 herein is directed to refer the matter to the concerned Industrial Tribunal or Labour Court within a period of four weeks from the date of receipt of a copy of this order. No costs.

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B.PRAKASH RAO, J.

Dated 13-09-2004.

Note: Issue C.C. in three days.

(B/O)

SKMR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday the thirteenth day of September Two Thousand and Four.

To

1. The Principal Secretary to Government,

Labour Employment Technical & Factories Department,

State of A.P., Hyderabad.

2. The Commissioner of Labour,

A.P., Hyderabad.

3. 2CCs to G.P. for Labour, High Court of A.P., Hyderabad(OUT).

4. 2CD copies.